

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21195

Application 30728 of

Linda Birge
P.O. Box 385
Lewiston, CA 96052

filed on **July 14, 1998**, has been approved by the State Water Resources Control Board (State Water Board)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Unnamed Stream

Tributary to:

South Yuba River thence

Yuba River thence

Feather River thence

Sacramento River

within the County of **Nevada**

2. Location of point of diversions

By California Coordinate System of 1927 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Pit Reservoir</u> North 600,500 feet, and East 2,241,400 feet	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	17N	7E	MD
<u>Ravine Reservoir</u> North 599,950 feet, and East 2,241,500 feet	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	25	17N	7E	MD

3. Purposes of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Stockwatering, Fire Protection, Recreation	<u>Pit Reservoir</u> SW $\frac{1}{4}$ of SW $\frac{1}{4}$	24	17N	7E	MD	
	<u>Ravine Reservoir</u> NE $\frac{1}{4}$ of NW $\frac{1}{4}$	25	17N	7E	MD	

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 34 acre-feet per annum to be collected from December 1 of each year to March 31 of the succeeding year as follows: 28 acre-feet per annum in Pit Reservoir and 6 acre-feet per annum in Ravine Reservoir.
(0000005D)
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
(0000005I)
7. The maximum rate of diversion to offstream storage shall not exceed 2.5 cubic feet per second.
(0000005J)
8. The total quantity of water collected to storage under this permit and Permits 18772 and 18773 (Applications 26924 and 27000 respectively) shall not exceed 154 acre-feet per annum.
(0000005L)
9. In recognition of the water rights held under this permit and Permits 18772 and 18773 (Applications 26924 and 27000), the capacity of the Pit Reservoir shall not exceed 128 acre-feet, the capacity of Ravine Reservoir shall not exceed 26 acre-feet.
(0000005P)
10. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
11. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2017.
(0000009)
12. Permittee, when required by the State Water Resources Control Board, shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Permittee shall submit plans and specifications of the outlet pipe or alternative facility to the Chief of the Division of Water Rights for approval within six months of the date upon which the Board issues notice that an outlet is required. Permittee shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.
(0000044)
13. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the rate and quantity of water diverted into the reservoirs.
(0000046)
14. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the SWRCB, made after notice to interested parties and opportunity for hearing.
(0000090)
15. The maximum simultaneous rate of diversion under this permit, together with that diverted under Permit 18772 (Application 26924), shall not exceed 12.5 cfs.
(0000114C)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board (State Water Board) until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)
- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605. (0000015)
- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game. (0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

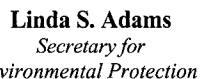
Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

James W. Russell
for Victoria A. Whitney
Division Chief

Dated:

FEB 28 2007



1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

Public Resources Code

To:	Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044	From:	State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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PROJECT TITLE: Application to Appropriate Water Exemption **APPLICATION:** 30728

APPLICANT: Linda Birge
P.O. Box 385
Lewiston, CA 96052

PROJECT DESCRIPTION: Application 30728 requests a water right permit to continue collecting a total of 34 acre-feet per annum (afa) in two existing reservoirs as follows: 28 afa in Pit Reservoir and 6 afa in Ravine Reservoir. The reservoirs were built and storage initiated pursuant to Permits 18772 and 18773 issued on Applications 26924 and 27000, respectively. The Division of Water Rights inspected the project on August 2, 1995 and determined that the storage capacities of the reservoirs exceeded the permitted amounts. Application 30728 was filed to establish a water right for the 34 afa of water not covered by the existing permits.

Pursuant to Application 30728, water will be used for the existing uses of stockwatering, fire protection and recreation at the reservoirs.

Public notice of the application was issued on April 13, 2001 and two protests were filed on the basis of potential injury to prior rights. The protest issues have been resolved and the protests have been dismissed. There were no protests based on adverse environmental impacts. The State Water Resources Control Board intends to issue a permit approving the application.

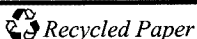
WATER TO BE APPROPRIATED FROM: Unnamed Stream tributary to South Yuba River.

AMOUNT AND SEASON: 34 afa to be collected from December 1 of each year to March 31 of the succeeding year.

LOCATION OF POINTS OF DIVERSION: (1) North 600,500 feet and East 2,241,400 feet and (2) North 599,950 feet and East 2,241,500 feet of California Coordinate System of 1927, Zone 2. Point of diversion (1) within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 24 and point of diversion (2) within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of section 25, both within T17N, R7E, MDB&M in Nevada County.

PURPOSES OF USE: Stockwatering, fire protection and recreation.

California Environmental Protection Agency



EXEMPT STATUS: Environmental review began on August 2, 1995. Approval of this project will not result in construction or expansion in the facilities or water use beyond that existing on the date environmental review began. Existing Facilities Exemption, in accordance with Title 14, California Code of Regulations, Section 15301, Class 1: CEQA applies only to projects which have the potential for causing a significant effect on the environment.

REASON WHY PROJECT IS EXEMPT:

1. This project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts.
2. There are no environmental protests.
3. The Department of Fish and Game did not identify any public trust impacts associated with diversion from the Unnamed Stream.

Contact Person: Katherine Mrowka	Telephone: (916) 341-5363 email: kmrowka@waterrights.swrcb.ca.gov
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APPROVAL OF THE ABOVE IS RECOMMENDED BY:

Katherine Mrowka 2-9-07
Katherine Mrowka, Chief Date
Watershed Unit 3

Steven Herrera 2/9/07
Steven Herrera, Chief Date
Water Right Permitting Section

APPROVED:

for James W. Kessel 2/21/07
Victoria A. Whitney Date
Division Chief

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Application 30728
Linda Birge

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Unnamed Stream tributary to South Yuba River
COUNTY: Nevada

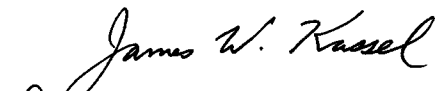
WHEREAS:

1. Application 30728 was filed with the State Water Resources Control Board (State Water Board) on July 14, 1998.
2. All protests to approval of the application have been resolved. Protest resolution resulted in inclusion of a term to protect prior rights in the permit (standard condition 90).
3. The State Water Board has determined that there is unappropriated water available to serve Application 30728. Protestant Pacific Gas and Electric Company (PG&E) prepared a water availability analysis dated December 14, 2001 that analyzed water supply conditions for the period 1970 through 2001 for the Yuba River and its tributaries above Lake Englebright and the Narrows 1 and 2 Powerhouses. PG&E concluded that water is available for junior appropriators during average and above average years. Overall, water was available in 38 percent of the months over the 22-year time period. Application 30728 seeks water for stockwatering, fire protection and recreation. Carryover storage can be relied upon for these purposes when the available water supply is needed to serve senior rights.
4. The water will be diverted and used without injury to any lawful user of water. PG&E's analysis documents that water can be diverted in average and better water years without injury to PG&E's prior rights. The U.S. Bureau of Reclamation protested the application, but this protest was resolved by inclusion of standard permit condition 90.
5. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. The permit limits diversions to only the water required to replace water lost to seepage and evaporation, unless the reservoirs are emptied for necessary repairs.
6. The intended use is beneficial. The applicant requests a right to store 34 acre-feet per annum of water in existing reservoirs for stockwatering, recreation and fire protection. These purposes of use are beneficial.

7. Environmental review began on August 2, 1995. Approval of this project will not result in construction or expansion in the facilities or water use beyond that existing on the date environmental review began. Pursuant to the provisions of the California Environmental Quality Act, the State Water Board issued a Notice of Exemption (NOE) based on an Existing Facilities Exemption, pursuant to Title 14, California Code of Regulations, section 15301, Class 1.
 - (1) The project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts.
 - (2) There are no environmental protests.
 - (3) The Department of Fish and Game did not identify any public trust impacts associated with diversion from the Unnamed Stream.

NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 30728, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD


for Victoria A. Whitney, Chief
Division of Water Rights

Dated: **FEB 28 2007**

Attachment